

**RBP & M, LLC
BOZZUTO DEVELOPMENT COMPANY
SECTION 913 LIMITED PARTNERSHIP
.PROFFER STATEMENT
RZ 2010-HM-008**

**November 9, 2010
Revised April 11, 2013**

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended) and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended) (the "Zoning Ordinance"), the property owners and applicants, for themselves and their successors and assigns (collectively referred to as the "Applicant"), in this rezoning application proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Map as 17-4 ((19)) 1, 2, 3, 4, 5A, and 6A (the "RBP & M Property") and 17-4 ((24)) 4B (the "Section 913 Property" and, collectively with the RBP & M Property, the "Property") shall be in accordance with the following conditions ("Proffers") if, and only if, RZ 2010-HM-008 (the "Application") is granted. In the event that this Application is denied, these Proffers shall be immediately null and void and of no further force or effect.

GENERAL

1. Conceptual Development Plan/Final Development Plan. The Property shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP") dated April 23, 2010, and revised through February 7, 2013, prepared by Urban Ltd., and consisting of 31 sheets, as further described below.
2. CDP Elements. Notwithstanding that the Conceptual Development Plan and the Final Development Plan are presented on the same sheets and defined as the CDP/FDP in Proffer 1, it shall be understood that the CDP consists of (i) the maximum square footage of permitted development on the Property, including the proposed mix and locations of uses as set forth on the CDP/FDP and as qualified under Proffer 5; (ii) the minimum proposed open space; (iii) the general location and arrangement, minimum setbacks, and maximum building heights of the buildings on the Property as shown on the CDP/FDP; and (iv) the points of access to the Property and accompanying pedestrian and vehicular circulation routes through the Property (collectively, the "CDP Elements"). The Applicant reserves the right to request approval from the Planning Commission of a Final Development Plan Amendment ("FDPA") pursuant to Section 16-402 of the Zoning Ordinance for elements other than the CDP Elements for all or a portion of the Property and the CDP/FDP, provided such FDPA is in substantial conformance with these Proffers.
3. Minor Modifications. Minor modifications to the CDP/FDP may be permitted pursuant to Section 16-403(4) of the Zoning Ordinance when necessitated by sound engineering or when

necessary as part of final site engineering. Such modifications shall be permitted, provided: (a) the maximum building heights for each building are not increased beyond the heights identified on Sheet 6 of the CDP/FDP and Proffer 7; (b) the minimum setbacks for each building are not decreased beyond the setbacks identified in Sheet of the CDP/FDP; (c) the amount of open space identified on Sheet 2 of the CDP/FDP is not reduced; and (d) the development otherwise is in substantial conformance with these Proffers and the CDP/FDP.

4. Future Applications. Any portion of the Property may be the subject of a Conceptual Development Plan Amendment ("CDPA"), FDPA, Proffered Condition Amendment ("PCA"), Rezoning, Special Exception, Comprehensive Sign Plan, Special Permit, Variance or other zoning action (including that the Section 913 Property may be the subject of any such an application in order to develop the Phase II Development, as hereinafter defined, in accordance with Proffer 5 below) without the joinder and/or consent of the owners of the other land areas, provided that such application complies with Par. 6 of Sect. 18-204 of the Zoning Ordinance and Section 15.2-2302 of the Code of Virginia, as applicable. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property that are not the subject of such an application shall remain in full force and effect.

PROPOSED DEVELOPMENT

5. Proposed Development. Redevelopment of the Property may occur in phases. The development proposed with this Application shall include: (a) a multi-family residential building on the RBP & M Property containing up to 421 multi-family dwelling units (the "Residential Units") and up to 10,000 square feet of non-office secondary uses ("Secondary Uses") as permitted under Section 6-403 of the Zoning Ordinance (the "Proposed Development") in accordance with the tabulations set forth on Sheet 2 of the CDP/FDP; and (b) the existing office building on the Section 913 Property containing 30,608 square feet of office and accessory uses ("Office Uses") in accordance with the tabulations set forth on Sheet 2 of the CDP/FDP (collectively, the Proposed Development and the Office Uses shall constitute the "Phase I Development"). The Applicant anticipates that the Section 913 Property may be the subject of a future Rezoning, CDPA, FDPA, PCA or other zoning action, as permitted in accordance with Proffer 4 above, to redevelop the Section 913 Property (the "Phase II Development"). Although no improvements are proposed for the Section 913 Property with Phase I, the Section 913 Property is included with this Application for the purpose of facilitating coordinated development of the RBP & M Property and the Section 913 Property. At such time as the Phase II Development occurs, such development shall be consistent with, and complementary to, the general character of the Phase I Development as a high-quality, mixed-use, and transit-oriented development and shall be well-integrated into the transit station area.

6. Secondary Uses. The Secondary Uses shall be located on the ground floor of the residential building along the Reston Station Boulevard frontage of the RBP & M Property as shown on Sheet 6 of the CDP/FDP. The Applicant shall develop a minimum of 3,500 square feet of Secondary Uses, provided, however, that the Applicant may convert such Secondary Use space to amenity space for residents of the building (such as, but not limited to, a fitness center,

business center, or community room) if the Applicant is unable to lease the Secondary Use space for Secondary Uses within one (1) year of the issuance of Residential Use Permits ("RUPs") for sixty-five percent (65%) or more of the Residential Units shown on the final site plan. The Secondary Uses shall have at least two (2) direct pedestrian access points from the sidewalk along the north side of Reston Station Boulevard.

7. Building Height. The building heights for the Proposed Development shall not exceed the maximum building heights shown on Sheet 6 of the CDP/FDP. Building height shall be measured in accordance with the provisions of the Fairfax County Zoning Ordinance and shall be exclusive of those structures that are excluded from the maximum building height regulations as set forth in Section 2-506 of the Zoning Ordinance, including, for example, penthouses and other rooftop structures used for common amenity space, exercise rooms, meeting rooms and similar facilities. Notwithstanding the foregoing, however, nothing shall preclude the Applicant from constructing the Proposed Development to a lesser building height than that which is represented on the CDP/FDP, provided the configuration of the building footprint remains in substantial conformance with that shown on the CDP/FDP.

8. Declarations and Owners' Associations.

- A. Umbrella Owners' Association. At any time, the Applicant may record a declaration and/or establish an Umbrella Owners' Association (the "UOA") for the RBP & M Property to address the general maintenance and other obligations (including stormwater management and transportation demand management) of the owner(s) (and their successors and assigns), including the fulfillment of these Proffers. If recorded or established, the declaration and/or UOA documents shall separately identify those maintenance or proffer obligations that will or are expected to fall principally on owners or residents of the residential building and such obligations shall be disclosed to the owners/residents in accordance with the terms of this proffer.
- B. Homeowner and Condominium Owners' Association. In the event units in the residential building are held for sale, the Applicant shall cause either a homeowners' association and/or a condominium owners' association ("HOA/COA") to be formed for the residential building. If a declaration is recorded and/or a UOA is established for the RBP & M Property, the HOA/COA shall be a member of the declaration and/or UOA.
- C. Commercial Association. In the event the residential building is a rental residential building without units held for sale, the Applicant may cause a Commercial Association ("CA") to be formed for the residential building. If a declaration is recorded and/or a UOA is established for the RBP & M Property, the CA shall be a member of the declaration and/or UOA.
- D. Disclosures. The declaration establishing any HOA/COA/CA on the RBP & M Property (including budgets provided in any offering or sale materials) shall

specify the proffer and maintenance conditions and obligations set forth in these Proffers. Purchasers shall be advised in writing of these proffer conditions and obligations prior to entering into a contract of sale.

- E. UOA Transportation Demand Management ("TDM") Obligations. All residents, tenants, owners, employers and employees living, working, operating a business or owning property within the RBP & M Property shall be advised of the TDM Plan described in Proffer 26. All HOA/COA/CA members shall be informed of any funding obligations for the TDM program prior to entering into a contract of sale, and all such obligations shall be included in the HOA/COA/CA documents.

LIGHTING

9. Lighting. All on-site outdoor and parking garage lighting provided with the Proposed Development shall comply with the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance and shall be generally consistent with the outdoor lighting fixtures provided for other developments in the Wiehle-Reston East Metro Station area, as determined by the Applicant in consultation with the Zoning Evaluation Division ("ZED"). All proposed parking garage and building mounted security lighting on the RBP & M Property shall utilize full cut-off fixtures.

NOISE ATTENUATION

10. Noise Attenuation. Concurrent with the initial submission of a site plan for the residential building, the Applicant shall submit to the County a refined acoustical analysis detailing the projected noise impacts of the Dulles Toll Road on the Residential Units and proposed mitigation techniques (the "Noise Study"). The Noise Study shall be conducted in accordance with requirements established by the Fairfax County Department of Planning & Zoning ("DPZ") and shall be submitted to DPZ and the Fairfax County Department of Public Works & Environmental Services ("DPWES") for review and approval. The Noise Study shall include projected noise levels in the Residential Units, outdoor balconies/patios, and outdoor recreation areas shown on the submitted site plan based on the proposed final site topography and conditions as shown on the site plan (rather than existing topography and conditions). The Noise Study shall include the following information: site plan and cross section views of the source of the noise in relation to the residential building, the affected Residential Units, and the affected outdoor recreation areas, and the consultant's recommendations for appropriate noise attenuation measures to ensure that the affected areas meet the standards outlined below. A copy of the approved Noise Study shall be included with the submission of the building permit applications for the residential building. The building plan shall identify the noise-affected spaces and the noise attenuation measures, including materials, to be provided to ensure that each such affected occupied space meets the standards outlined below.

- A. Acceptable Noise Levels within Residential Units. The Applicant shall provide noise attenuation measures in order to reduce interior noise in all Residential Units to approximately 45 dBA Ldn or less.

- i. Above 75 dBA Ldn. No Residential Unit (or portion thereof, such as outdoor balconies) may be established in areas projected to be impacted by noise levels greater than 75 dBA Ldn.
 - ii. 70 dBA Ldn to 75 dBA Ldn. In order to reduce interior noise to a level of no more than 45 dBA Ldn for Residential Units that are projected to be impacted by noise greater than 70 dBA Ldn (but not more than 75 dBA Ldn) the Applicant shall construct such units using the following acoustical measures:
 - a. Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 45;
 - b. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 70 dBA or above;
 - c. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a laboratory STC rating of at least 45; and
 - d. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.
 - iii. 65 dBA Ldn to 70 dBA Ldn. In order to reduce interior noise to a level of no more than 45 dBA Ldn for Residential Units that are projected to be impacted by noise projected greater than 65 dBA Ldn (but not more than 70 dBA Ldn), the Applicant shall construct such units using the following acoustical measures:
 - a. Exterior walls shall have a laboratory STC rating of at least 39;
 - b. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 70 dBA or above;
 - c. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a laboratory STC rating of at least 39; and
 - d. All surfaces shall be sealed and caulked in accordance with methods approved by the ASTM to minimize sound transmission.
- B. Noise Levels at Outdoor Recreation Areas and Balconies/Patios. The Applicant shall provide noise attenuation measures as determined necessary by the Noise Study as approved by DPWES and DPZ to ensure that traffic-related noise in the

outdoor recreation areas and balconies/patios do not exceed 65 dBA Ldn. Adjustments to the noise attenuation measures that are in substantial conformance with those indicated on the CDP/FDP may be permitted subject to the approval of the Zoning Administrator to ensure that the noise attenuation measures provide the necessary noise attenuation.

- C. Noise Contours on Site Plans and Building Permits. All site plans, building permit applications and building plans submitted to the County for the Residential Units shall indicate whether such building is required to include noise attenuation measures and, if so, the type of attenuation measure to be implemented. Building and site plans for each unit that is subject to noise mitigation as provided herein shall depict the final noise contours as determined by the Noise Study.

PARKING

11. Zoning Ordinance Parking Requirements. Parking shall be provided in accordance with the parking requirements of Article 11 of the Fairfax County Zoning Ordinance, as determined by DPWES, for the uses within the Proposed Development. The maximum number of parking spaces for the Residential Units shall be the minimum number of parking spaces required under Article 11 of the Zoning Ordinance in effect as of the date of these Proffers. The Applicant reserves the right to provide parking spaces for the Secondary Uses in addition to the total number of parking spaces shown on Sheet 2 of the CDP/FDP (a) if such additional spaces result from the final design of the parking structure, or (b) to the extent necessary to accommodate uses established on the RBP & M Property that result in a higher parking requirement than is shown on the CDP/FDP (e.g., eating establishments), provided that (i) the building height as set forth on Sheet 6 of the CDP/FDP and in Proffer 7 are not exceeded and (ii) the building footprints for each building remain in substantial conformance with the building footprints shown on Sheet 6 of the CDP/FDP.

12. Future Parking Reductions. Given (a) the Property's proximity to the Wiehle-Reston East Metro Station, (b) the planned bus service at the Property, (c) the character of the Proposed Development as a mixed-use, urban development, and (d) the Transportation Demand Management ("TDM") Plan detailed in Proffer 26, the Applicant may pursue a parking reduction for the Proposed Development, as may be permitted by Article 11 of the Fairfax County Zoning Ordinance and approved by the Board of Supervisors.

13. Bicycle Parking. As part of site plan approval for the Proposed Development, the Applicant shall designate on the site plan and install secure bicycle storage sufficient to provide one (1) visitor bicycle space for every twenty-five (25) Residential Units, one (1) long-term bicycle space for residents for every five (5) Residential Units, and one (1) visitor/employee bicycle space for every 5,000 square feet of Secondary Uses. The Applicant also shall provide signage within the RBP & M Property to guide bicyclists to the secure bicycle storage facilities. The Applicant shall determine the final location of the secure bicycle storage, the type of bicycle racks, and bicycle signage in consultation with the Fairfax County Department of Transportation

("FCDOT") Bicycle Coordinator prior to site plan approval for the Proposed Development. The bicycle storage facilities designated on the site plan and the bicycle signage shall be installed prior to the issuance of the first RUP for the Residential Units.

14. Electric Vehicle Charging Facilities. As part of site plan approval for the Proposed Development, the Applicant shall designate on the site plan and install at least one (1) electric vehicle charging station, and ancillary wiring and infrastructure necessary to increase the number of electric vehicle charging stations, within the parking garage for the residential building.

SIGNAGE

15. Signage. Signage for the Proposed Development shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan approved by the Planning Commission in accordance with Section 12-210 of the Zoning Ordinance.

LANDSCAPING

16. Landscape Plan. The Applicant shall implement the landscape design for the Proposed Development shown on Sheet 10 of the CDP/FDP (the "Overall Landscape Plan"), which illustrates the plantings and other features to be provided with the Proposed Development, including streetscapes, plazas and parks. The Overall Landscape Plan is conceptual in nature and may be modified by the Applicant as part of final engineering and building design, provided that such modifications provide a similar quality of landscaping as that shown on the Overall Landscape Plan and the CDP/FDP, as determined by Urban Forest Management Division of DPWES ("UFMD").

- A. Native Species. The Applicant shall use native species to the extent practicable throughout the Proposed Development, provided that the Applicant reserves the right, in consultation with and approval by UFMD, to modify as part of site plan approval for each building the exact species to be used, such as where some plant materials are not available or have been deemed by UFMD to no longer be appropriate.
- B. Site Plan(s). As part of the initial site plan submission for each building of the Proposed Development, the Applicant shall submit to UFMD for review and approval a detailed landscape and tree cover plan (the "Landscape Plan") for such building(s), which shall include, among other things:
 - i. Irrigation information;
 - ii. Design details for tree wells or grates and other similar planting areas above structures and along streets;

- iii. Composition of the planting materials and/or structural soils used for street trees or where plantings are to be located within or on top of structures and other methods to be used to ensure the viability of the proposed plantings;
 - iv. Information demonstrating that the Landscape Plans are consistent with and are part of implementation of the SWM Plan defined in Proffer 18; and
 - v. Other information that may be requested by UFMD.
- C. Planting Quality. Each Landscape Plan shall be consistent with the quality and quantity of plantings and materials shown on the Overall Landscape Plan of the CDP/FDP and may include the use of additional shade trees and other plant materials as determined by the Applicant. The Applicant may adjust the type and location of vegetation and the design of the public spaces, courtyard areas and streetscape improvements and plantings as approved by ZED and UFM, provided such adjustments otherwise are in substantial conformance with the CDP/FDP.
- D. Planting Strips. The Applicant shall install street trees consistent with the Streetscape plans included on Sheet 10 of the CDP/FDP. For trees not planted within an 8-foot wide minimum planting area, or that do not meet the minimum planting area required by the PFM, the Applicant shall provide details for alternative designs showing how the proposed planting spaces will provide for normal tree growth and performance by installing structural cells or an equivalent solution acceptable to UFMD to meet the following specifications:
- i. A minimum of 6 feet open surface width and 48 square feet open surface area.
 - ii. Rooting area a minimum of 8 feet wide, which can be achieved in instances where open surface area width is less than 8 feet by providing suitable rooting area below paved surfaces using methods that do not require soil compaction for structural purposes such as structural cells.
 - iii. Soil volume for Category III or IV trees (as indicated in Table 12.17 of the Public Facilities Manual) shall be a minimum of 455 cubic feet per tree for single trees. For two trees planted in a contiguous planting area, a total soil volume of at least 760 cubic feet shall be provided. For three trees or more planted in a contiguous area, the soil volume shall equal at least 400 cubic feet per tree.
 - iv. Planting spaces shall provide 36-48 inches of soil depth.
 - v. Planting spaces shall be interconnected to the furthest extent feasible.

- vi. Soil in planting sites shall be as specified in planting notes to be included in site plans reviewed and approved by Urban Forest Management.

The Applicant shall provide notice to UFMD not less than 72 hours prior to the Applicant's implementation of the tree planting spaces to permit UFMD to verify the proper installation and planting of trees in conformance with the approved site plan. At such time, the Applicant also shall provide UFMD written documentation demonstrating that the materials and methods used satisfy the requirements of the plan and verifying that the contractors performing the work are licensed as may be required by the manufacturer. Following installation and no later than final bond release for the site plan for which this proffer is applicable, the Applicant shall provide written confirmation from a certified arborist and/or landscape architect verifying installation of trees by a licensed contractor consistent with the requirements of this proffer.

- E. Open Space Designs. As part of final engineering and design, and subject to review and approval by ZED, the Applicant may elect to modify the designs of the various open space areas from the designs shown on Sheets 10, 11, and 12 of the CDP/FDP, provided that such modifications offer a similar quality of design and quantity of plantings and materials as those shown on the CDP/FDP and are in accordance with Section 16-403(4) of the Zoning Ordinance. The Applicant shall incorporate into the design or architecture of the Proposed Development public art features or designs selected by the Applicant in consultation with representatives of the Initiative for Public Art in Reston to be maintained by the Applicant. The public art shall be completed prior to final bond release for the Proposed Development.
- F. Tree Preservation. UFM has approved a tree preservation deviation for the RBP & M Property based on the provision that construction activities be reasonably expected to impact existing trees or forested areas used to meet the Tree Preservation Target to the extent these would not likely survive in a healthy and structurally sound manner for a minimum of ten (10) years in accordance with the post-development standards for trees and forested areas provided in Section 12-0403 and 12-0404 of the PFM. The tree canopy requirement will be met with new planting proposed with the Proposed Development.
- G. Tree Replacement. The Applicant shall replace any tree that is planted on the RBP & M Property, and is counted toward meeting the overall tree canopy requirement, that is damaged, such that thirty percent (30%) or more of the crown is no longer viable, as a result of maintenance to the stormwater management facilities and storm sewer pipe on the RBP & M Property with a tree of equal or greater size. The size of the replacement tree shall be based on the caliper size of the tree to be replaced as shown on the final site plan.

17. Streetscaping. The Applicant shall provide streetscape improvements and plantings ("Streetscape") as indicated on the Overall Landscape Plan shown on Sheet 10 of the CDP/FDP. Notwithstanding the foregoing, and subject to approval by ZED, the Applicant may make minor modifications to the Streetscape, including shifting the locations of street trees, to accommodate final architectural designs, sight distance concerns and utilities, as well as to facilitate outdoor elements in the Proposed Development, provided that such changes are in substantial conformance with these Proffers and the CDP/FDP and as approved by DPWES. As part of site plan approval for the Proposed Development, the Applicant shall grant public access easements for the entry plaza area and sidewalks on the RBP & M Property.

STORMWATER MANAGEMENT

18. Stormwater Management. As part of site plan approval for the Proposed Development, the Applicant shall demonstrate that the Proposed Development will meet applicable Fairfax County Public Facilities Manual ("PFM") requirements for stormwater quantity and stormwater quality in effect at the time of the approval of this Application. The site plan shall include strategies for addressing both water quantity and water quality management issues, including detailed mitigation measures to be implemented as part of construction. The Applicant shall construct stormwater quantity and quality measures in accordance with the site plan (and each subsequent revision thereto) with the Proposed Development, such that the runoff reductions outlined below shall be achieved.

- A. Stormwater Management Goals. Using a series of infiltration facilities and/or structural and non-structural stormwater management and/or Best Management Practices ("BMP") facilities, the Applicant shall demonstrate the Proposed Development's conformance with applicable PFM requirements for stormwater quantity and stormwater quality in effect at the time of the approval of this Application. Underground stormwater detention shall be provided in conformance with the conditions of DPWES Waiver #2615-WPFM-003-1.
- B. Maintenance Responsibility. Prior to site plan approval for the Proposed Development, the Applicant shall execute an agreement with the County in a form satisfactory to the County Attorney (the "SWM Agreement") providing for the perpetual maintenance of all stormwater management facilities that are part of the Proposed Development ("SWM Facilities"). The SWM Agreement shall require the Applicant (or its successors) to perform regular routine maintenance of the SWM Facilities and to provide a maintenance report annually to the Fairfax County Maintenance and Stormwater Management Division of DPWES, provided DPWES requests such a maintenance report. The SWM Agreement also shall address easements for County inspection and emergency maintenance of the SWM Facilities to ensure that the facilities are maintained by the Applicant in good working order.

TRANSPORTATION IMPROVEMENTS

19. Right-of-Way for Sunset Hills Road. As part of the first site plan approval for the Proposed Development, or upon the written request of Fairfax County, whichever occurs first, the Applicant shall reserve for future dedication to the Board of Supervisors right-of-way to 53 feet from the existing centerline of Sunset Hills Road, as shown on Sheets 2 and 6 of the CDP/FDP. Upon the written request of Fairfax County at such time as the necessary engineering and funding exist to permit the widening of Sunset Hills Road, the Applicant shall dedicate such right-of-way in fee simple to the Board of Supervisors for public street purposes.

20. Right-of-Way and Construction for Reston Station Boulevard and Metro Center Drive. As part of the first site plan approval for the Proposed Development, or upon written request of Fairfax County, whichever occurs first, the Applicant shall dedicate in fee simple the right-of-way along Reston Station Boulevard and Metro Center Drive, as shown as "Proposed R.O.W. Dedication" on Sheet 6 of the CDP/FDP, to the Board of Supervisors for public street purposes. Subject to VDOT approval, the Applicant shall construct widening and frontage improvements, and implement lane restriping as necessary, for Reston Station Boulevard and Metro Center Drive as shown on Sheet 6 of the CDP/FDP. The Applicant shall complete and open such improvements to traffic (but not necessarily have such improvements accepted by VDOT) prior to the issuance of the first RUP for the Proposed Development.

21. Construction of Interim Private Drive. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall construct a private drive along the eastern boundary of the RBP & M Property as shown on Sheet 6 of the CDP/FDP. This private drive shall be for the purpose of serving the parking garage entrance and loading spaces on the RBP & M Property as an interim condition until the approval and establishment of a public road connection from Reston Station Boulevard to Sunset Hills Road.

22. Escrow for Future Access Connection. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall post an escrow in the amount of \$15,079.16 in the form of cash or a letter of credit from a financial institution authorized to conduct business in the Commonwealth of Virginia as a contribution toward the implementation of a future access connection from Reston Station Boulevard to Sunset Hill Road along the eastern boundary of the RBP & M Property as shown on Sheet 5B of the CDP/FDP. Fairfax County shall be permitted to draw upon the escrow at such time as the required engineering is complete and the necessary funding is in place for the construction of such access connection. At such time, the Applicant shall grant to the County a temporary construction and grading easement on the RBP & M Property as necessary for the construction of the access connection.

23. Retail Loading Area. Prior to site plan approval for the Proposed Development, the Applicant shall determine, in consultation with VDOT and DPWES, whether to proceed with the retail loading entrance along Metro Center Drive as shown on Sheet 6 of the CDP/FDP or the alternative retail loading entrance along Metro Center Drive as shown on Sheet 13A of the CDP/FDP to provide safe and efficient retail loading for the residential building. In the event the

Applicant determines, in consultation with VDOT and DPWES, that an alternative design for the retail loading entrance along Metro Center Drive is preferable to both options identified in the CDP/FDP, the Applicant shall be permitted to proceed with such an alternative without the need for a CDPA/FDPA/PCA. The Applicant shall incorporate the selected retail loading entrance prior to final site plan approval.

24. Traffic Signal Timing Study. As part of the site plan process, if VDOT determines that a signal timing study is necessary, the Applicant shall submit a signal timing study for the signalized intersections along Wiehle Avenue, from the intersection of Sunset Hills Road to the intersection of the Dulles Toll Road (Westbound Ramps), to determine appropriate signal timing modifications. Such signal timing study shall be subject to review and approval by VDOT and shall provide for sufficient pedestrian crossing times in accordance with established standards as determined by VDOT. This proffer will be considered to be satisfied with the submittal of the signal timing study to VDOT, if required.

25. Traffic Signal Facilities. If the relocation of any traffic signal heads, poles, mast arms, or related ancillary facilities is required to accommodate the Proposed Development, the Applicant shall complete the relocation of such traffic signal facilities prior to the issuance of the first RUP for the residential building. If the traffic signal has not yet been installed at the intersection of Reston Station Boulevard, the Metro parking garage entrance, and the proposed private road referenced in Proffer 21, the Applicant shall not be responsible for installation of the new traffic signal, but shall coordinate with others to ensure that the traffic signal design will accommodate the Proposed Development on the RBP & M Property.

TRANSPORTATION DEMAND MANAGEMENT

26. Transportation Demand Management. This proffer sets forth the components of a transportation demand management program for the Proposed Development that shall be implemented by the Applicant, and its successors or assigns, to reduce peak hour vehicle trips generated by the residents of the RBP & M Property. The proffered elements of the transportation demand management program shall be identified and more fully described in a Transportation Demand Management Plan (the "TDM Plan") the Applicant shall submit to FCDOT for review and approval as set forth below. It is the intent of this proffer that the TDM Plan adapt over time to respond to changing transportation related circumstances of the RBP & M Property, as well as to technological and/or other improvements, with the objective of meeting the proffered vehicle trip reduction goals.

A. Definitions:

- i. Applicant Control Period. The "Applicant Control Period" is the period starting immediately following approval of this rezoning Application and ending on the date when three (3) consecutive annual Trip Counts conducted starting at least one (1) full calendar year after the Residential Units reach Full Occupation show that vehicle trips generated by the Residential Units are less than or equal to the TDM Goal (as defined

herein). Upon expiration of the Applicant Control Period, the Applicant may assign responsibility for ongoing implementation of the TDM Plan to a future UOA/HOA/COA/CA, in the event such an association is created that includes the Residential Units, provided the Applicant gives written notice to FCDOT within ten (10) days of any such assignment. Upon the assignment of the TDM responsibilities to a UOA/HOA/COA/CA, the Applicant shall have no further obligations under this proffer.

- ii. Full Occupation. For purposes of this proffer, "Full Occupation" of the Residential Units shall be deemed to occur upon the issuance of 80 percent (80%) of all RUPs for the Residential Units, except as otherwise agreed to by the Applicant and FCDOT.
- iii. Peak Hours. For purposes of this proffer, the relevant weekday "Peak Hours" shall be that 60-minute period during which the highest weekday volume of mainline trips occurs between 7:00 to 9:00 AM and 4:00 to 6:00 PM, as determined by mechanical traffic counts conducted at two select locations abutting the RBP & M Property as approved in consultation with FCDOT. To determine the Peak Hours, such counts shall be collected beginning on a Monday at 24:00 hours and continuing to the following Thursday at 24:00 hours at a time of year that reflects typical travel demand conditions (e.g. September to May, not during a holiday week or when public schools are not in session). The methodology for determining the Peak Hours may be modified subject to approval of FCDOT in order to respond to technological and/or other improvements in trip counting.

B. Trip Reduction Objective. The objective of this TDM program shall be to reduce the number of vehicle trips generated by the Residential Units to be developed on the RBP & M Property during weekday Peak Hours (as determined based on the Institute of Transportation Engineers, Trip Generation, 8th Edition) by meeting the vehicle trip reductions set forth below. The Secondary Uses established as part of the Proposed Development and the Existing Development shall not be included in the TDM Plan.

C. Baseline Trips. The baseline number of vehicle trips for the Residential Units against which the TDM Goals (as defined herein) will be measured shall be 210 AM Peak Hour trips and 249 PM Peak Hour trips (the "Baseline Trips"). The Baseline Trips are based on the 421 Residential Units that may be constructed on the RBP & M Property as part of the Proposed Development and using the trip generation rates/equations applicable to such uses and densities as set forth in the Institute of Transportation Engineers, Trip Generation, 8th Edition. In the event the Applicant constructs fewer than 421 Residential Units as part of the Proposed Development, then the Baseline Trips applicable upon Full Occupation shall be

calculated as if 421 Residential Units in the Proposed Development had actually been constructed as reflected on the CDP/FDP.

- D. TDM Goals. The "TDM Goals" for the vehicle trip reductions for the Residential Units shall be as follows:

Peak Hour	Residential Use Permits	ITE Land Use Code	Maximum ITE Projected Trips	Target Peak Hour Trip Reduction Percentage	TDM Trip Reduction Goal
AM	1 to 421	220	210	40%	126
PM	1 to 421	220	249	40%	149

- E. TDM Plan. In order to meet the TDM Goals set forth in this proffer, the Applicant shall develop and implement the TDM Plan. The TDM Plan shall outline the components of the Applicant's TDM program and the specific TDM strategies the Applicant will implement to meet the TDM Goals, which shall be selected by the Applicant in consultation with FCDOT. The Applicant shall submit the TDM Plan to FCDOT for review and approval prior to site plan approval for the Proposed Development. The Applicant shall implement the TDM Plan, as approved by FCDOT, prior to the issuance of the first RUP for the Residential Units. The Applicant may amend and supplement the TDM Plan from time to time, subject to approval by FCDOT, without the need for a PCA.

- F. TDM Strategies. The following list represents potential TDM strategies the Applicant may select and implement as part of the TDM Plan in order to meet the TDM Goals. It is the Applicant's intent to identify a non-exclusive list of potential TDM strategies, which the Applicant may amend and supplement from time to time, subject to approval by FCDOT, without the need for a PCA. The TDM strategies are as follows:

- i. Designation of the TPM, as described above;
- ii. A targeted marketing program for residential sales/leases that encourages and attracts TDM-oriented residents, such as bicyclists, one or no-car individuals/families and employees of nearby employers to live in the Proposed Development; provided, however, that such marketing shall be completed on a non-discriminatory basis in conformance with the Fair Housing Act and all other applicable laws and regulations;
- iii. Integration of transportation information and education materials into office leases and residential sales/rental kits;
- iv. Coordination/assistance with vanpool and carpool formation programs, including ride matching services, with adjacent office/residential buildings

and homeowners associations and established guaranteed ride home programs;

- v. Establishment of a site-specific project website that includes multimodal transportation information, real-time travel and transit data, the possibility of online transit pass sales or value loading and connections to supporting links;
- vi. Provision of a 500 – 850 square-foot business center that offers broadband or high-speed data connections (including “secure” voice and/or data connections), computers, facsimile machine and similar items;
- vii. Provision of broadband or high-speed data connections/wiring for internet access for all Residential Units;
- viii. Establishment of a location to be staffed/managed by the TPM within the Proposed Development at which transit and ridesharing information is made available to tenants, residents and visitors;
- ix. A parking management plan for the Residential Units, which shall include (i) a unit sales/rental program/policy under which each residential unit is allocated one (1) parking space as part of the base purchase/rental price, and that additional parking spaces may be purchased/leased for an additional cost; and (ii) dedicated space for residential vanpools and car-sharing vendors not otherwise addressed in these Proffers;
- x. Distribution of fare media or other incentives up to a maximum \$50.00 per Residential Unit, at least one time, to all initial residents of driving age, as well as on select occasions as an incentive;
- xi. Use of car sharing program(s) (such as the existing ZipCar service or comparable program);
- xii. Provision of secure bicycle storage in accordance with Proffer 13; and
- xiii. “Personalized transportation advising” integrated into new residential unit walk-throughs, including appropriate training of residential sales/leasing agents.

G. Process of Implementation. The Applicant shall implement the TDM program as follows, provided that amendments and supplements to the implementation process set forth below may be made, subject to approval by FCDOT, without the need for a PCA.

- i. TDM Program Manager. Prior to the issuance of the first building permit for the Proposed Development, the Applicant shall appoint a professional TDM Program Manager (the "TPM") to develop, implement, and monitor the elements of the TDM Plan. The TPM may have additional duties beyond implementation of the TDM Plan. The Applicant shall provide written notice to FCDOT of the appointment of the TPM within ten (10) days of such appointment and, thereafter, within ten (10) days of any change in such appointment. Following the initial appointment of the TPM, the Applicant, and its successors or assigns, shall continuously employ a TPM for the Proposed Development.
- ii. Annual Report and TDM Budget. Within thirty (30) days following the issuance of the first building permit for the Proposed Development, the TPM shall prepare and submit to FCDOT a "TDM Budget" sufficient to implement the TDM Plan for the remainder of the year and for the next calendar year. Each calendar year thereafter, but no later than October 15th, the TPM shall prepare and submit to FCDOT a report ("Annual Report") detailing the implementation of the TDM Plan and any modifications to the TDM Budget. The Annual Report shall include, at a minimum, the following items or the items identified in a template for the Annual Report provided by FCDOT:
 - a. A description of the current calendar year's TDM strategies and implementation efforts;
 - b. Description of the details associated with the monitoring and reporting requirements of the TDM program;
 - c. Analysis of any applicable Surveys and/or Trip Counts for the current calendar year;
 - d. Description of the TDM strategies that will be put into place for the upcoming calendar year; and
 - e. Any revisions to the TDM Plan for the upcoming calendar year; and
 - f. Any revisions to the TDM Budget needed to implement the TDM Plan for the upcoming calendar year.

The Annual Report, the TDM Budget, and any revisions to the TDM Plan shall be reviewed by FCDOT. If FCDOT does not respond with any comments within sixty (60) days after submission, then the Annual Report for the current calendar year and the TDM Budget and TDM Plan for the upcoming calendar year shall be deemed approved and the TDM Plan

shall be implemented accordingly. If FCDOT responds with comments on the Annual Report, the TDM Budget, or any revisions to the TDM Plan, then the TPM will meet with FCDOT within fifteen (15) days of receiving FCDOT's comments. No later than thirty (30) days after the meeting, the TPM shall submit revisions to the Annual Report, the TDM Budget, and/or the TDM Plan to FCDOT for review and approval. Upon FCDOT's approval, the TPM shall implement the approved TDM Plan and fund the approved TDM Budget.

- iii. TDM Account. Within sixty (60) days following the issuance of the first building permit for the Proposed Development, the Applicant, through the TPM, shall establish and fund a separate interest-bearing account with a financial institution qualified to do business in Virginia (the "TDM Account") in an amount equal to the initial TDM Budget for the purpose of implementing the TDM Plan. The TPM shall provide written documentation demonstrating the establishment of the TDM Account to FCDOT within ten (10) days of its establishment. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes.
 - a. Annual Funding. The TDM Account shall be replenished annually, no later than December 31st, in accordance with the upcoming calendar year's approved TDM Budget. The annual TDM Budget shall not exceed \$25,000, which shall escalate on a yearly basis in accordance with Proffer 38 below.
 - b. Management of TDM Account. The TDM Account shall be managed by the Applicant, its successors or assigns, as applicable. In the event the implementation of the TDM program becomes the responsibility of an assignee UOA/HOA/COA/CA, a line item for the TDM Account shall be included in the applicable UOA/HOA/COA/CA budget. The documents that establish and control the UOA/HOA/COA/CA shall provide that the TDM Account shall not be eliminated as a line item in the applicable budget, and that funds in the TDM Account shall not be utilized for purposes other than to fund the TDM program.
- iv. TDM Remedy Fund. Concurrent with the establishment and funding of the TDM Account, the Applicant, through the TPM, shall establish a separate interest-bearing account with a financial institution qualified to do business in Virginia (the "TDM Remedy Fund") for the purpose of meeting immediate needs for funding to supplement the TDM Account in support of additional TDM strategies. The TPM shall provide written documentation demonstrating the establishment of the TDM Remedy

Fund to FCDOT within ten (10) days of its establishment. All interest earned on the principal shall remain in the TDM Remedy Fund and shall be used for TDM Remedy Fund purposes.

Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall fund the TDM Remedy Fund by making a one-time contribution of \$0.10 per gross square foot of floor area of the Residential Units to be constructed on the RBP & M Property. This contribution amount shall escalate on a yearly basis in accordance with Proffer 38 below. Funds in the TDM Remedy Fund shall be drawn upon only for the purpose of meeting immediate needs for additional TDM funding and may be drawn on prior to any TDM Budget adjustments as may be necessary.

- v. TDM Incentive Fund. Prior to the issuance of the first RUP for the Residential Units, the Applicant shall make a one-time contribution of \$75 per unit into a sub-account of the TDM Account to fund a multi-modal/transit incentive program for initial purchasers and/or lessees of the Residential Units. Such program shall be prepared by the Applicant, in consultation with FCDOT, and shall include consideration of fare media distribution and value loading, financing incentives, and alternative incentives (such as grocery delivery) tailored to residents who are not likely to make use of alternative commuting option benefits.
- vi. Surveys. One year after the Residential Units reach Full Occupation and every three (3) years thereafter, unless otherwise approved by FCDOT, the TPM shall conduct a survey of residents of the RBP & M Property to evaluate the effectiveness of the TDM Plan in meeting the TDM Goals and to evaluate the need for changes to the TDM Plan (the "Survey"). The TPM shall submit to FCDOT, as part of each Annual Report, an analysis of any Survey conducted during the year. Analysis of the Survey shall include, at a minimum, the following items or the items identified in a template for the Survey provided by FCDOT:
 - a. A description of the TDM strategies in effect for the survey period and a description of how such measures have been implemented;
 - b. The number of people surveyed and the number of people who responded;
 - c. The results of the surveys taken during the survey period;
 - d. The number of residents participating in the TDM programs, displayed by category and mode of use; and

- e. An evaluation of the effectiveness of the TDM program elements in place, including their effectiveness at achieving the TDM Goals, and, if necessary, proposed modifications and how they will be implemented.

If a Survey reveals that changes to the TDM Plan are needed or advisable, then the TPM shall coordinate such changes with FCDOT and, as necessary, adjust the TDM Budget and implement the revisions.

- vii. Trip Counts. The Applicant, through the TPM, shall verify that the proffered TDM Goals are being met through the completion of vehicle trip counts of the Residential Units (the "Trip Counts") as follows:

- a. Methodology. For purposes of this Proffer, Trip Counts shall be measured on three (3) consecutive days over a maximum two-week period (but not including a week containing a federal holiday or when public schools are not in session) between September 1st and October 31st of each calendar year, or such other time as the TPM and FCDOT shall mutually determine. The Trip Counts shall include Peak Hour counts of vehicles entering and exiting driveways to the residential building as well as intersection turning movement counts at those street connections to/from the RBP & M Property, as coordinated with and approved by FCDOT. The Trip Counts shall be conducted so that only trips generated by the Residential Units on the RBP & M Property shall be counted (i.e. cut-through trips, retail trips, etc., shall be excluded).
- b. Frequency of Trip Counts. One year after the Residential Units reach Full Occupation, and every year thereafter until such time as three (3) consecutive Trip Counts show that the vehicle trips generated by the Residential Units are less than or equal to the TDM Goals, the TPM shall conduct Trip Counts to measure the actual vehicle trips generated by the Residential Units constructed on the RBP & M Property as of the date the Trip Count is completed and to evaluate whether such vehicle trips are less than, equal to, or greater than the TDM Goals.

If the results of three (3) consecutive Trip Counts reveal that the TDM Goals have been met, then the Applicant Control Period shall expire and the Applicant shall have no further obligations under this proffer. Thereafter, the Applicant's successor and/or an assignee UOA/HOA/COA/CA shall conduct Trip Counts every two (2) years.

- H. Evaluation and Remedies. The results of each Trip Count shall be compared to the maximum number of trips allowed for the Residential Units to determine whether actual traffic counts are equal to, less than, or greater than the maximum allowed trips under the TDM Goals.
- i. Compliance. In the event the Trip Counts conducted upon Full Occupation of the Residential Units show that the vehicle trips generated by the Residential Units at the time the Trip Counts are conducted are equal to or less than the maximum number trips allowed under the TDM Goals set forth above for three (3) consecutive years, then (a) the Applicant Control Period shall expire, (b) any funds remaining in the TDM Remedy Fund shall be released back to the Applicant, and (c) the Applicant, and subsequently its successors and assigns, shall continue to administer the TDM Plan in the ordinary course, in accordance with the provisions of these Proffers.
- ii. Out of Compliance. In the event a Trip Count conducted upon Full Occupation of the Residential Units shows that the vehicle trips generated by the Residential Units at the time the Trip Count is conducted are greater than the maximum number of trips allowed under the TDM Goals set forth above, then the TPM shall convene a meeting with FCDOT within thirty (30) days of the completion of the Trip Count to review the results of the Trip Count and the TDM Plan then in place and to develop modifications to the TDM Plan and the TDM Budget to address the surplus of trips. The TPM shall submit any revisions to the TDM Plan and TDM Budget to FCDOT within thirty (30) days following this meeting. If no written response is provided by FCDOT within sixty (60) days, the TPM's revisions to the TDM Plan and updated TDM Budget shall be deemed approved. Following approval of the revised TDM Plan and updated TDM Budget, the TPM shall (a) draw down on the TDM Remedy Fund, as needed; (b) increase the TDM Account with TDM Remedy Funds, if necessary, in order to cover any proportional additional costs to implement the updated TDM Budget; and (c) implement the provisions of the revised TDM Plan as developed in consultation with FCDOT.
- I. Ongoing Implementation of TDM Plan. Upon the expiration of the Applicant Control Period, the Applicant, a successor, or an assignee UOA/HOA/COA/CA, as applicable, shall be responsible for the ongoing implementation of the TDM Plan. The TPM shall conduct additional Trip Counts every two (2) years to determine whether the TDM Goals continue to be met. In the event an Annual Report submitted by the TPM demonstrates through trend analysis that a change in commuting patterns has occurred that is significant enough to reasonably call into question whether the TDM Goals continue to be met, then FCDOT may require the TPM to conduct additional Trip Counts on a more frequent basis (but

not more frequently than once per year) to determine whether, in fact, the TDM Goals are being met.

- i. Continuation of TDM Plan. In the event subsequent Trip Counts conducted after the Applicant Control Period expires reveal that the actual trips generated remain equal to or less than the maximum number of trips permitted under the TDM Goals, then the TPM shall continue to implement the TDM Plan and to make Annual Reports to FCDOT.
 - ii. Future Increases in Vehicle Trips. In the event subsequent Trip Counts conducted after the Applicant Control Period expires reveal that the actual trips generated exceeds the maximum number of trips permitted under the TDM Goals, then the TPM shall resume conducting Trip Counts until such time as three (3) consecutive annual Trip Counts show that vehicle trips generated by the Residential Units once again are less than or equal to the TDM Goals. The TPM also shall convene a meeting with FCDOT within thirty (30) days of the completion of the Trip Count to review the results of the Trip Count and the TDM Plan then in place and to develop modifications to the TDM Plan and the TDM Budget to address the surplus of trips. The TPM shall submit any revisions to the TDM Plan and TDM Budget to FCDOT within thirty (30) days following this meeting. If no written response is provided by FCDOT within sixty (60) days, the TPM's revisions to the TDM Plan and updated TDM Budget shall be deemed approved. Following approval of the revised TDM Plan and updated TDM Budget, the TPM shall (a) draw down on the TDM Remedy Fund, as needed; (b) increase the TDM Account with TDM Remedy Funds, if necessary, in order to cover any proportional additional costs to implement the updated TDM Budget; and (c) implement the provisions of the revised TDM Plan as developed in consultation with FCDOT.
 - iii. Additional Trip Counts. The TPM shall repeat the process above (including additional adjustments to the TDM Plan, additional funding and additional monitoring) until the TDM Goals again have been met for three (3) consecutive years, whereupon the TPM shall then be required to conduct Trip Counts only every two (2) year, as described above.
- I. Review of Trip Reduction Goals. At any time the TPM may request that FCDOT review the TDM Goals for the Residential Units and set a lower goal for vehicle trips reductions consistent with the results of Surveys and Trip Counts provided for in this proffer. In the event a revised lower goal is established, the TDM Goals shall be revised accordingly without the need for a PCA.
 - J. Enforcement. If the TPM fails to timely submit the Annual Report to FCDOT as required by this Proffer, the TPM shall have sixty (60) days within which to cure

such violation. If after such sixty (60) day period the TPM has not submitted the delinquent Annual Report, then the Applicant and/or UOA/HOA/COA/CA, as applicable, shall be subject to a penalty of \$75 per day payable to Fairfax County to be used for multi-modal/transit related improvements in the vicinity of the Property until such time as the report is submitted to FCDOT.

RECREATIONAL FACILITIES

27. Amenities and Facilities for Residents. The Applicant shall provide as part of the Proposed Development facilities designed to meet the on-site recreational needs of the future residents of such units. Pursuant to Paragraph 2 of Section 16-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend a minimum of \$1,700.00 per non-Affordable Dwelling Unit on such recreational facilities. Prior to final bond release for any site plan for the Proposed Development, the balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority for the provision of recreational facilities located in proximity to the Property. To satisfy the above Zoning Ordinance requirement, the Applicant shall make the following facilities or amenities available for the residential building:

- A. Swimming pool;
- B. Interior courtyard areas, which shall include informal seating areas, landscaping, hardscape areas, and passive recreation areas;
- C. Fitness center with stationary bikes, treadmills, weight training equipment with weight machines and free weights, etc.; and
- D. At least one of the following to be located in the area identified as "Lawn" on Sheet 11 of the CDP/FDP: i) bocce ball court, ii) putting green, iii) volleyball court, and/or iv) badminton court/equipment.

28. Parks Contribution. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall contribute \$1,786 per Residential Unit to the Fairfax County Park Authority for public parks in the vicinity of the Property. The public parks contribution shall escalate from the date of the approval of this Application to the date of payment in accordance with Proffer 38.

PUBLIC SCHOOLS CONTRIBUTION

29. Public Schools Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on January 7, 2003, at the time of issuance of the first building permit for the residential building, the Applicant shall contribute \$816 per Residential Unit (based on an assumed rate of 0.087 students per unit multiplied by \$9,378 per student generated) constructed on the RBP & M Property to the Board of Supervisors for transfer to the Fairfax County School Board to be utilized for capital improvements and capacity enhancements to schools in the Reston area that serve the RBP & M Property. The public

schools contribution shall escalate from the date of the approval of this Application to the date of payment in accordance with Proffer 38.

AFFORDABLE HOUSING

30. Affordable Dwelling Units. Regardless of whether the Proposed Development is exempt from the requirement to provide Affordable Dwelling Units ("ADUs") pursuant to Section 803 of Part 8 of Article 2 of the Fairfax County Zoning Ordinance in effect as of the approval date of this Application (the "ADU Ordinance"), the Applicant shall provide five percent (5%) of the total number of Residential Units constructed as part of the Proposed Development to be sold/rented as ADUs administered pursuant to the ADU Ordinance.

31. Workforce Dwelling Units. In addition to the number of ADUs required pursuant to Proffer 30, the Applicant also shall provide seven percent (7%) of the total number of Residential Units constructed as part of the Proposed Development to be sold/rented as Workforce Dwelling Units ("WDUs") administered as set forth in the "Board of Supervisors' Workforce Dwelling Unit Administrative Policy Guidelines" adopted October 15, 2007. When the required number of WDUs results in a fractional unit less than 0.5, the number shall be rounded down to the next whole number. When the required number of WDUs results in a fractional unit greater than or equal to 0.5, the number shall be rounded up to the next whole number. Notwithstanding the foregoing, the Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the WDUs following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such agreement and the provisions of this proffer shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

GREEN BUILDING

32. Green Building for the Residential Units. In order to promote energy conservation and green building techniques, the Applicant shall select one of the following programs to be implemented and will inform the Environment and Development Review Branch of DPZ which program the Applicant has chosen as part of the first site plan submission for the Proposed Development.

- A. NAHB Green. If the Applicant selects NABH Green, then the Applicant shall seek certification of the Residential Units in accordance with the National Association of Home Builders ("NAHB") National Green Building Certification rating system using the Energy Star Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and the Environment and Development Review Branch of DPZ from a home energy

rater certified through the NAHB Research Center that demonstrates each Residential Unit has attained Bronze level certification prior to the issuance of the RUP for each unit.

- B. LEED New Construction or LEED for Homes Multifamily Mid-Rise. If the Applicant selects LEED New Construction or LEED for Homes Multifamily Mid-Rise, then the Applicant will include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—for Homes Multifamily Mid-Rise (LEED®-for Homes Multifamily Mid-Rise) or LEED-NC rating system determined to be applicable to the residential building in consultation with the Environment and Development Review Branch of the DPZ. A LEED-accredited professional ("LEED-AP") who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the project.

In addition, the Applicant will designate the Chief of the Environment and Development Review Branch of the DPZ as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

Prior to building plan approval, the Applicant will submit documentation, to the Environment and Development Review Branch of DPZ, regarding the U.S. Green Building Council's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the residential building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED certification. Prior to release of the bond for the project, the Applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating the status of attainment of LEED certification or a higher level of certification from the U.S. Green Building Council for the building.

If the U.S. Green Building Council's review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED certification, the Applicant will post a "green building escrow" in the form of cash or a letter of credit from a financial institution authorized to do business in the Commonwealth of Virginia in the amount of \$2 per gross square foot of the residential building. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED certification, or higher level of

certification, by the U.S. Green Building Council, under the most current version of the LEED for Homes Multifamily Mid-Rise rating system or the LEED-NC rating system. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED certification will be sufficient to satisfy this commitment.

If the Applicant provides to the Environment and Development Review Branch of DPZ, within one year after issuance of the final RUP for the residential building, documentation demonstrating that LEED certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED certification, fifty percent (50%) of the escrow will be released to the Applicant; the other fifty percent (50%) will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicant fails to provide, within one year after issuance of the final RUP for the residential building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification or demonstrating that the building has fallen short of LEED certification by three points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

- C. EarthCraft. If the Applicant selects EarthCraft, then the Applicant shall provide documentation to DPWES and DPZ that the residential building has been awarded certification in accordance with the EarthCraft House Program prior to the issuance of the first RUP for the residential building.

ARCHITECTURE

33. Architectural Design and Building Materials. Notwithstanding the notes on Sheets 13C and 13D of the CDP/FDP, the character of the architectural design and building materials for the residential building shall be in general conformance with the elevations shown on Sheets 13C and 13D of the CDP/FDP. The Applicant reserves the right to adjust the quantity of parking

stories and occupied stories with the final design and to adjust the finished grade as part of the final design and engineering, provided the maximum building height is honored, no more than an additional thirty percent (30%) of a parking story is raised above the grades shown on Sheets 13C and 13D, and any such parking story area raised above grade has architectural treatment consistent with the character of the architectural design and building materials shown on Sheets 13C and 13D. Exterior building materials for the residential building shall be selected by the Applicant from among the following: brick, masonry/stone, aluminum, steel, glass, cementitious paneling and siding, and architectural pre-cast concrete headers, sills, and trim details, provided that final architectural details and accents may include other materials.

RESTON ASSOCIATION

34. Participation in the Reston Association. The Applicant shall negotiate in good faith with the Reston Association, with the goal of reaching an agreement within 180 days of the approval of this Application, for the joinder of the individual Residential Units within the RBP & M Property into the Reston Association with respect to the use of Reston Association amenities/facilities and the payment of appropriate annual dues for the use of such amenities/facilities, as mutually agreed upon by the Applicant and the Reston Association.

MISCELLANEOUS PROFFERS

35. Advance Density Credit. The Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all eligible dedications described herein.

36. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

37. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

38. Annual Escalation Clause. For all proffers in this document specifying monetary contributions, the contribution and/or budget amount shall escalate or de-escalate, as applicable, on a yearly basis from the base year of 2012 and change effective each January 1 thereafter, as permitted by Section 15.2-2303.3 of the Code of Virginia, as amended.

[Signature pages follow]

RBP & M, LLC,
a Virginia limited liability company

By: 

Name: Charles A. Veatch, II

Title: Manager

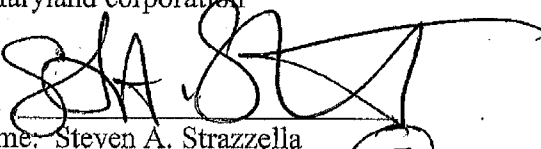
SECTION 913 LIMITED PARTNERSHIP,
a Virginia limited partnership

By: 

Name: Charles A. Veatch, II

Title: General Partner and Limited Partner

BOZZUTO DEVELOPMENT COMPANY,
a Maryland corporation

By: 
Name: Steven A. Strazzella
Title: Senior Vice President

EF